

***United States Court of Appeals
for the Second Circuit***



APPENDIX

No. 76-1168

**United States Court of Appeals
For the Second Circuit**

UNITED STATES OF AMERICA,
APPELLEE,

v.

GENE L. SIMMS ET AL.,
DEFENDANTS, APPELLANTS.

ON APPEAL FROM A JUDGMENT OF THE UNITED STATES DISTRICT
COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

APPENDIX

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Gene L. Simms*

Blanchard Press, Inc., Boston, Mass. — Law Printers

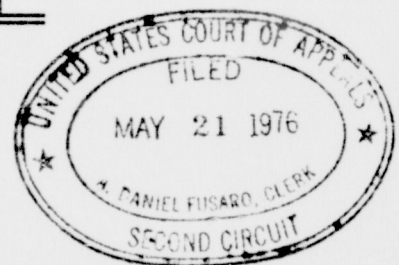


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PAGINATION AS IN ORIGINAL COPY

|30| 12 75 1262

No. 04
of
Defendants

defendant

Defining

LARGES

18:371
15:645(a)
18:2314

Consp. to make false statements.
False statements to SBA.
Interstate transp. of stolen prop.

1
2
3-9

EYS

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(212) 791-0046

Joseph Balliro, Esq.
65 East India Row-Boston, Mass.

10-7-75

112 30 75

x
12-30-75

0712-76

09.11.16

MAIL ROOM
CASE NO. 1

☐ Personal Recog.
☐ Unsecured Bond
☐ Conditional Release

Set (100) ☐ 10% Deposit
\$ _____ ☐ Delivery Fee

_____ ☐ Call Return

☐ Paid Not
Mail ☐ Self Party

☐ Exp. Stamp ☐ Return

Changed ☐ PSA

(S) _____ ☐ (S) _____

SEARCH WARRANT		DATE	INITIAL/No	INITIAL APPEARANCE	INITIAL/No	OUTCOME
Summons	Issued			PRELIMINARY EXAMINATION OR REMOVAL HEARING	Date _____ Scheduled _____ Date _____ Held _____	<input type="checkbox"/> Dismissed <input type="checkbox"/> Held for District CJ <input type="checkbox"/> Held to Answer to U. S. District Court
	Return					
Arrest Warrant	Issued			<input type="checkbox"/> Waived <input type="checkbox"/> Not Waived	<input type="checkbox"/> Intervening Indictment	<input type="checkbox"/> Exonerated <input type="checkbox"/> To Transfer District AT
	Served					
COMPLAINT				Tape No.	INITIAL/No	Magistrate's Initials
OFFENSE (In Complaint)						

• Show last names and suffix numbers of other defendants on same indictment/information
Stagg-1; Kassab-3; Geffen-4.

Stagg-1; Kassab-3; Geffen-4.

V. Excludable Delay

DATE _____

PROCEEDINGS

(a)	(b)	(c)	(d)
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12-30-75

Filed indictment.

Referred to Judge Pollack as superseding indictment
75 Cr 971.

01-12-76

Jury trial begun before Judge Pollack.

01-13-76

Trial cont. d.

01-14-76

Trial cont'd.

01-15-76

Trial cont'd.

01-16-76

trial cont'd. and concluded. Deft. found guilty on all nine counts. Deft. given 7 days to make motions. Pre-sentence report ordered. For sentence 3-19-76 at 9:45AM. room 2704. Bail cont'd. as to both defts. Pollack, J.

3-16-76

03-23-76

Filed Judgment (atty. present) cts. 1,3,4,5,6,7,8 and 9-
2 yrs. impr. ea. ct. conc. ct. 2 I.S.S. 3 yrs. prob.
w/super.deft. to become eligible for parole pur. 18:4208
(a)(2). Deft. cont'd. on present bail pending appeal,
etc. Pollack, J. issued all copies.

03-29-76

Filed notice of appeal from judgment of 3-23-76, mailed copies

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK-----x
UNITED STATES OF AMERICA :

-v- :

: INDICTMENTA. MICHAEL STAGG, GENE L.
STIMS, ERNEST KASSAB, and
ROBERT GEFFEN, :

: S 75 Cr. 1262

Defendants. :

-----x
INTRODUCTION

The Grand Jury charges:

1. In June, 1972, Stagg Holding Corporation, a New York corporation based in White Plains, New York, through its subsidiary corporation, Stagg of Huntingdon, Inc., was constructing a shopping center in Huntingdon, Pennsylvania.
2. In June, 1972 Hurricane Agnes struck an area that included Huntingdon, Pennsylvania, causing widespread flood damage.
3. Following Hurricane Agnes, the State of Pennsylvania enacted an emergency loan program to provide interim financing for repair of businesses damaged in the hurricane. The State loan program operated as follows: The applicant would apply for a flood repair loan through a regional development authority. After initial review by that authority, the application would be sent to the Federal Reserve Bank of New York, New York, for review by the Federal Reserve Bank of New York, New York, and the Department of Commerce. Simultaneously, the

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applicant would apply for a loan in the same amount as the State loan to the United States Small Business Administration (hereinafter "SBA"). The applicant would receive money quickly from the State and begin repair of the flood damage. When he received his SBA loan he would use it to pay back the loan from the State of Pennsylvania, and complete repairs, and would pay back the SBA loan over an extended period.

4. From in and around June 1972 and up to in and around November 1972, ERNEST KASSAB, the defendant, was the Democratic candidate for the United States Congress from the 23rd District of Pennsylvania.

COUNT ONE

The Grand Jury further charges:

5. From in or about June, 1972, up to and including the date of the filing of this Indictment, in the Southern District of New York and elsewhere, A. MICHAEL STAGG, GENE L. SIMMS, ERNEST KASSAB and ROBERT GEFFEN, the defendants, and Albert Bisland, Frank DeAngelis, Robert Bloech, David Flood and Robert Schumann, named herein as co-conspirators but not as defendants, and others to the Grand Jury known and unknown, unlawfully, willfully and knowingly did combine, conspire, confederate and agree together and with each other to defraud the United States and the SBA, and the

State of Pennsylvania, and to violate Section 645(a) of Title 15, United States Code, and Section 2314 of Title 18, United States Code.

6. It was a part of the said conspiracy that the defendants and their co-conspirators would and did make false statements to the SBA knowing the said statements to be false, for the purpose of influencing the action of the SBA, and for the purpose of obtaining money, property, and things of value.

7. It was further a part of said conspiracy that the defendants and their co-conspirators would and did transport in interstate commerce between State College, Pennsylvania, and the Southern District of New York money of a value of more than \$5,000, knowing the same to have been stolen, converted and taken by fraud.

8. Among the means whereby the defendants would and did accomplish the unlawful purposes set forth in paragraphs 5 through 7 of this Indictment were the following:

(a) In July, 1972, the defendants A. MICHAEL STAGG, GENE L. STILIS and ROBERT GEFEN, and their co-conspirators, prepared and submitted to the SBA a document entitled, "Application for Disaster Loan -- Business," claiming that a shopping center in Reading, PA, owned and constructed by Stagg Holding Corporation and Stagg

of Huntingdon, Inc. had suffered flood damage in the amount of \$702,000 during Hurricane Agnes, in June, 1972 and requesting a loan in the said amount. The actual damage suffered, as they well knew, was not more than \$225,000.

(b) In September and October, 1972, the defendants A. MICHAEL STAGG, GENE L. STUMS and ROBERT GEFFEN, and their co-conspirators prepared and submitted to the State of Pennsylvania documents requesting an interim loan in the amount of \$702,000 for the alleged flood damage referred to in paragraph (a) above, until long-term financing could be obtained from the SBA.

(c) In support of the above applications, the defendant ROBERT GEFFEN and his co-conspirators prepared and submitted forged vouchers purporting to represent flood repair work done at the Huntingdon, Pennsylvania, shopping center site by outside contractors. Among the said vouchers were vouchers of Harrisburg Excavating and Equipment Company, Inc., a company affiliated with Stagg Holding Corporation.

(d) In or about September and October, 1972, for the purpose of influencing the State of Pennsylvania to provide an interim loan in the amount requested by the defendants A. MICHAEL STAGG, GENE L. STUMS and ROBERT GEFFEN, and their co-conspirators, the defendant ERNEST KASSAB, knowing and having

reason to know that the amount so requested was inflated and fraudulent, met and otherwise spoke with representatives of the Pennsylvania Department of Commerce.

(e) In October, 1972, after the State of Pennsylvania had granted interim financing in the amount of \$664,000 based in part on the above forged vouchers, the defendants A. MICHAEL STAGG and GENE L. SIMMS and their co-conspirators caused the said money to be sent from an escrow account in State College, Pennsylvania, to an account of the Stagg Contracting Corporation in New York City, and caused a substantial part of said money to be deposited in an account of Harrisburg Excavating and Equipment Company, Inc. in the Southern District of New York.

(f) From June 1972 through March 1973, in return for assistance rendered and to be rendered by the defendant ERNEST KASSAB, in connection with the said loan applications, including the aforesaid attempts to influence the State of Pennsylvania, defendants A. MICHAEL STAGG and GENE L. SIMMS and their co-conspirators paid to defendant ERNEST KASSAB approximately \$50,000 in goods, services and cash, including approximately \$35,000 in cash at the time when the defendant ERNEST KASSAB was a member of the United States Congress from the 23rd District of the State of Pennsylvania.

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OVERT ACTS

9. In furtherance of, and to effect the objects of said conspiracy, the defendants and their co-conspirators committed the following overt acts, among others, in the Southern District of New York and elsewhere:

(i) On or about July 6, 1972 the defendant ERNEST KASSAB wrote a letter to the defendant GENE L. SIMMS.

(ii) On or about July 25, 1972 the defendant GENE L. SIMMS wrote a letter to the defendant ERNEST KASSAB.

(iii) In or about July 1972, the defendant A. MICHAEL STAGG signed a document entitled "Application for Disaster Loan -- Business" which was then submitted to the SBA.

(iv) In or about October 1972 the defendant ROBERT GEFFEN traveled from Westchester County, New York to Harrisburg, Pennsylvania and there met with a representative of the Pennsylvania Department of Commerce.

(v) On or about October 13, 1972 the defendant ROBERT GEFFEN wrote a letter to Charles J. Blankenship of the Pennsylvania Department of Commerce.

(vi) On or about October 23, 1972 the defendant GENE L. SIMMS caused the sum of \$12,000 to be wired from the First National City

Bank in White Plains, New York to account number 111-527-S at the Peoples National Bank in State College Pennsylvania, an account in the name of the Committee to Elect Ernie Kassab to Congress.

(vii) On or about February 16, 1973 the defendant GENE L. SHIMS sent a letter and enclosures from White Plains, New York to the SBA in Harrisburg, Pennsylvania.

(Title 18, United States Code, Section 371.)

COUNT TWO

The Grand Jury further charges:

10. From in or about June, 1972, up to and including January, 1973, in the Southern District of New York and elsewhere, A. MICHAEL STAGG, GENE L. SHIMS, ROBERT GEFFEN and ERNEST KASSAB, the defendants, unlawfully, wilfully and knowingly did make false statements to the SBA to the effect that Stagg Holding Corporation, a New York corporation, and Stagg of Huntingdon, Inc., its subsidiary corporation, had suffered losses in the amount of \$702,000 from flood damage, in June, 1972, to a shopping center being constructed by said corporations in Huntingdon, Pennsylvania, knowing the said statements to be false, for the purpose of influencing the action of the SBA, and for the

purpose of obtaining money, property, and things
of value.

(Title 15, United States Code, Section 645(a);
Title 18, United States Code, Section 2.)

COUNTS THREE through NINE

The Grand Jury further charges:

15. On or about the dates specified
in Counts Three through Nine below, A. MICHAEL
STACG, GENE L. SIMS, ERNEST KASSAB and ROBERT GEFFEN,
the defendants, unlawfully, wilfully and knowingly,
did transport in interstate commerce between State
College, Pennsylvania, and the Southern District of
New York money in the approximate amounts as herein-
after set forth in Counts Three through Nine, knowing
the same to have been stolen, converted and taken
by fraud:

<u>Count</u>	<u>Date</u>	<u>Amount</u>
3	October 25, 1972	\$ 11,124.63
4	November 3, 1972	10,000.00
5	November 13, 1972	80,000.00
6	November 13, 1972	192,252.00
7	December 11, 1972	74,008.04
8	January 1, 1973	13,750.00
9	January 19, 1973	57,065.33

(Title 18, United States Code, Sections 2314 and
2.)

[Signature]
Attorney

THOMAS J. GATHEL

United States Attorney

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[30] bjmds 2

Blankenship - direct

2 Pennsylvania Department of Commerce.

3 Q Directing your attention June of 1972, were
4 you a resident of the State of Pennsylvania at that time?

5 A Yes.

6 Q During June of 1972 was there a flood in the
7 State of Pennsylvania?

8 A Yes.

9 Q Was that Hurrican Agnes?

10 A Yes.

11 Q As a result of that flood, did the State of
12 Pennsylvania adopt any program for relief for the businesses
13 damaged by the flood?

14 A Yes.

15 Q Would you tell us what type of arrangement the
16 State of Pennsylvania made?

17 A Yes. The State made short-term disaster recovery
18 loans to flood damaged business enterprises who were awaiting
19 federal Small Business Administration loans.

20 Q Did you play any part in that program?

21 A Yes. I directed the program.

22 Q Would you describe for the jury as best you can
23 exactly how that program operated, how a business would
24 apply for funds and how they would eventually wind up with
25 them?

[41] bjmds 13

Blankenship - direct

2 A Huntingdon, Pennsylvania.

3 Q Is that Stagq Holding Company that submitted that
4 application?

5 A It was Stagq Holding Company, the parent and
6 Stagq of Huntingdon was the subsidiary.

7 Q What was the Stagq Company's connection with
8 the shipping center?

9 A They were the owner and contractor of the shopping
10 center.

11 Q And that shopping center was in Huntingdon,
12 Pennsylvania?

13 A Yes.

14 Q Where was the application originally submitted?

15 A It was submitted to the Bellefonte Area Industrial
16 Development Authority.

17 Q Did there come a time that that application was
18 forwarded to you?

19 A Yes.

20 Q When was that?

21 A In early October of 1972.

22 Q Mr. Blankenship, I show you what has been previous-
23 ly marked as Government's Exhibit 1 for Identification.

24 I ask you to look that over and tell us if you recognize
25 that?

[42] bjmds 14

Blankenship - direct

42

2 A Yes.

3 Q Can you tell us what that is?

B3 4 A This is -- these are application forms for the
5 short-term disaster recovery loan.

6 Q That is the loan to the State of Pennsylvania,
7 the Pennsylvania loan?

8 A Yes.

9 Q Was there also submitted with that what has
10 been previously marked as Government's Exhibit 2 for Identifi-
11 cation, which is an application for a SBA loan?

12 A Yes.

13 Q Did you receive both of those?

1 A Yes.

15 MR. COSTELLO: The government offers Government's
16 Exhibit 1 and Government's Exhibit 2.

17 MR. ROTHBLATT: No objection.

18 MR. RUBINO: No objection, your Honor.

19 THE COURT: Received.

20 MR. BAILLIRO: I have no objection, your Honor.

xx 21 (Government's Exhibits 1 and 2 received in
22 Evidence.)

23 BY MR. COSTELLO:

24 Q Mr. Blankenship, if I might backtrack for a
25 moment, did the Bellefonte Area Industrial Development

[43] bjmds 15

Blankenship - direct

2 Authority, the organization that first received the applica-
3 tion, did they themselves conduct an independent estimate
4 of the damage at the cite?

5 A Not that I am aware of.

6 Q Mr. Blankenship, what was the amount sought in
7 the application to the State of Pennsylvania for a disaster
8 loan?

9 A I believe it was \$702,000.

10 Q Did there come a time when documents were submitted
11 to backup the application for \$702,000?

12 A Yes.

13 Q Mr. Blankenship, I show you a folder which contains
14 documents that have been previously marked as Government's
15 Exhibits 3 through 30 for Identification.

16 I ask you to look those over, and tell us if you
17 recognize those?

18 A Yes.

19 Q Were those the backup documents that were submitted
20 to back up the claim for \$702,000 worth of damages?

21 A Yes.

22 Q Did you ever see the originals of those documents?

23 THE COURT: You mean the ribbon copies, is that
24 what you mean by originals?

25 MR. COSTELLO: Correct, your Honor.

[44] bjmds 16

Blankenship - direct

2

THE COURT: And those being Xerox copies?

3

MR. COSTELLO: Correct, your Honor.

4

5

A I saw the originals long after the loan application in the U.S. Attorney's office.

6

Q At that time period did you ever see the originals?

7

A No.

8

THE COURT: What were those numbers?

9

MR. COSTELLO: 3 through 30.

10

BY MR. COSTELLO:

11

12

13

Q Mr. Blankenship, Government's Exhibits 3 through 30 which have been received for identification, who did you receive them from?

14

A Irving Yaverbaum.

15

Q Who is he?

16

17

A A certified public accountant and financial advisor for the program, on contract for the program.

18

Q What did he do as financial advisor of the program?

19

20

21

22

A He assisted in reviewing the applications, particularly financial statements and invoices and other financial material, and advised on the likelihood of the company receiving long-term financing.

23

24

Q Did there come a time when the loan to Staag Holding Corporation was approved?

25

A Yes.

[45] b7mds 17

Blankenship - direct

2 Q Will you tell us when that was?

3 A About early or mid-October, 1972.

4 Q How did the approval of the loan come about?

5 A After we received the application material, and
6 with the supporting invoices as documentation, the borrower
7 had met the application criteria and the loan was approved
8 in the amount of \$664,000.

9 Q And the basis for the approval was the vouchers
10 that I have shown you marked as Government's Exhibits 3
11 through 30 for Identification?

12 MR. BAILLIRO: I object, your Honor.

13 THE COURT: What was the basis for the approval?

14 THE WITNESS: The application and the supporting
15 invoices.

16 Q Prior to the approval of the loan, did there come
17 a time when there was a request raised with respect to a
18 company known as Harrisburg Excavating and Equipment Company?

19 A Yes.

20 Q Can you tell us how that came about?

21 A Irving Yaverbaum noticed that the Harrisburg
22 Excavating and Equipment company invoices had the same
23 address as the Stagg Holding Corporation.

24 We inquired about the relationship of the company.

25 Q When you say "we inquired," who inquired?

[87] 10 bmbr

De Angelis-direct

2 Q Do you recall when that was?

3 A I don't recall the date but he was to have some
4 materials shipped to his house and charged to the
5 Huntingdon job and that was thorough Interstate Building
6 Materials through Mr. Stagg -- Mr. Stagg knew of all this.
7 He indicated it.

8 Q Was it one load or more than one load?

9 A I think it was more than one load. I don't
10 think it was more than two. One or two loads. I don't
11 remember exactly.

12 Q Mr. De Angelis, would you take a look at the
13 other vouchers in that folder marked Government's Exhibits
14 3 through 30. Could you look at them, please. I ask you
15 whether your initials appear on those vouchers.

16 A Yes, they do.

17 Q Are those the initials in the circle?

18 A That's right. They are my initials. This
19 one doesn't have my initials.

20 Q 13 doesn't have them but most of the
21 others do?

22 A Correct.

23 Q Mr. De Angelis, have you pleaded guilty in this
24 case?

25 A Yes, I have.

[88] 11 bmb

De Angelis-direct

2 Q Before whom did you plead guilty?

3 A Before Judge Pollack.

4 Q The Judge presiding here?

5 A The presiding Judge, yes.

6 Q Have you been sentenced?

7 A Yes, I have.

8 Q What is your sentence?

9 A Sixty days.

10 Q Have you served it?

11 A Yes, I have.

12 MR. MUKASEY: No further questions.

13 THE COURT: We will take our mid-afternoon
14 recess now for ten minutes. The jury may go out.

15 (Jury leaves the courtroom.)

16 (Recess.)

17 (In open court; jury present.)

18 MR. ROTHBLATT: I have no questions.

19 MR. RUBINO: I have no questions.

20 MR. BALLIRO: I have no questions.

21 THE COURT: Thank you very much, Mr. De Angelis.

22 You are excused. You may leave.

23 The next witness, please.

24

25

T-D
1/12/76

[89] 1 bjs

2 MR. COSTELLO: The Government calls Albert
3 Bisland.

4 - -

5 A L B E R T B I S L A N D , residing at 19 Lawrence
6 Avenue, North Tarrytown, New York, called as a
7 witness by the Government, being first duly sworn,
8 testified as follows:

9 DIRECT EXAMINATION

10 BY MR. COSTELLO:

11 Q Mr. Bisland, I will ask you to look your voice
12 up, please, so that everybody in the jury can hear you.

13 Directing your attention to June of 1972, how
14 were you employed?

15 A Secretary-treasurer of Stagg Holding Corporation
16 and subsidiaries.

17 Q What were your duties as secretary-treasurer?

18 A I was office manager and accountant.

19 Q Were you in charge of the staff?

20 A I had a bookkeeper and a junior accountant.

21 Q Could you tell the Court how the Stagg companies
22 were organized?

23 A There was a holding company by the name of Stagg
24 Holding Corp. and all the shopping centers and apartments
25 that we owned were under Stagg Holding Corp.

1 [90] 2 bjs

Bisland - direct

2 There was different corporations and the stock
3 was owned by Stagg Holding Corp.

4 Q And a Stagg Construction Corp.?

5 A Stagg Construction, Stagg of Phillipsburg and
6 others, Stagg Contracting, Stagg of Huntingdon, Stagg of
7 Phillipsburg and other Stagg corporations. 17, I believe,
8 in all.

9 Q Did each corporation have its own shopping
10 center?

11 A It had its own piece of property, a shopping
12 center or an apartment complex.

13 Q Was there also some limited partnerships?

14 A Correct.

15 Q Would you tell us what they were and what their
16 function was?

17 A The limited partner as far as I recall --
18 Stagg Holding Corporation is a corporation and would form
19 a limited partnership that would be the general partner in
20 a limited partnership, and that would have a tax shelter.

21 Q What did the limited partner do? What did
22 they own?

23 A Part of the shopping center as a limited
24 partner.

25 Q To your knowledge was there a shopping center

1[91] 3 bjs

Bisland - direct

2 that was being built in Huntingdon, Pennsylvania?

3 A There was.

4 Q Could you tell us the corporations and partner-
5 ships that were associated with that particular shopping
6 center?

7 A Stagg of Huntingdon, Inc., and the limited
8 partnership was Huntingdon Associates.

9 Q These were subdivisions of Stagg Holding Corp.?

10 A Yes, Stagg Holding Corp. was the general
11 partner in Huntingdon Associates.

12 Q Of the companies that you just mentioned, which
13 companies were specifically involved in the construction
14 of the shopping center?

15 A Stagg Contracting.

16 Q Mr. Bisland, do you know a man by the name of
17 Michael Stagg?

18 A I do.

19 Q Could you tell the Court what Mr. Stagg's function
20 was in this partnership?

21 A He was the sole stockholder of Stagg Holding,
22 and its subsidiaries, and chairman of the board of the
23 company.

24 Q Do you know a gentleman by the name of Gene
25 Simms?

[92] 4 bjs

Bisland - direct

2 A I do.

3 Q Do you see him in court today?

4 A I do.

5 Q Would you point him out, please?

6 A He is right there (indicating).

7 MR. COSTELLO: May the record reflect the identification of Mr. Simms?

9 THE COURT: Yes.

10 BY MR. COSTELLO:

11 Q Mr. Bisland, do you know what Mr. Simms' function was in the corporation?

13 A He was the administrative end of the corporation. He was a partner.

15 Q Can you be more explicit when you say administrative end?

17 What did that entail?

18 A He took care of the interim financing on construction loans or gathering of leases for gathering of leases for shopping centers if it were tenants and that is about what he did. Financing.

22 Q Directing your attention to June of 1972, did you learn of a flood in Pennsylvania?

24 A I did.

25 Q How did you learn of that flood?

[93] 5 bjs

Bisland - direct

2 A We had a project manager on the job by the
3 name of Ralph Guarino.

4 And he called in the office on the day of the
5 flood to Mr. Stagg and informed him we had problems with
6 the shopping center, that it was being flooded.

7 Q How do you know that?

8 A Mr. Stagg had a speaker phone in the office,
9 and he had part of the conversation on the speak phone, and
10 everybody -- everyone in the office was listening to the
11 conversation at the time.

12 Q Can you tell us what happened after you learned
13 of the flood in Huntingdon, Pennsylvania?

14 A It got to the point where Ralph Guarino was
15 going to high ground because the shopping center was gong --
16 he was going to leave and call from a motel that was above
17 the flood crest or whatever it was.

18 Q What happened after that?

19 A Mr. Stagg was upset about what was going on,
20 and he said that he was going to try to get to the flood
21 site. He told Frank De Angelis -- he wanted to go home,
22 and he told him if could get home, he would fly down to
23 see him the next day.

24 Q When you say he wanted to go home --

25 A He lived in Pottstown, Pennsylvania, part of

1 [94] 6 bjs

Bisland - direct

94

2 the flood area.

3 Q Did Mr. Stagg say how he was going to get down?

4 A Yes. He said he was going to rent a helicopter
5 and fly down.

6 Q What happened after that?

7 A That was over a weekend period. Monday morning
8 I was told that Mr. Stagg had been to the flood site,
9 and he met Frank De Angelis and they surveyed the damages.

10 Q Who told you that?

11 A Mr. Stagg. In fact, I think -- I believe he
12 had pictures of him there.

13 Q Did Mr. Stagg tell you anything else?

14 A He told me that the shopping center was
15 totally destroyed.

16 Q Did he ask you to do anything?

17 A We had a requisition going into a real estate
18 investment trust that finances our interim financing during
19 the interim construction stage of the shopping center, and
20 he said to notify them of the damages and to check with
21 the insurance company to see if we had flood damage.

22 Q Did you do that?

23 A I did, and we did not have flood damage.

24 Q Did you contact that real estate investment
25 trust?

1 [95] 7 bjs

Bisland - direct

2 A Yes, I did.

3 Q What happened?

4 A They said they were suspending the financial
5 funding of the shopping center for us because of the
6 damages.

7 Q Did there come a point when you had conversa-
8 tion with regard to an application for a disaster loan?

9 A I was informed that we were going to put in a
10 SBA loan.

11 Q Who informed you of that?

12 A I believe I was informed by Mr. Geffen and
13 Mr. Stagg at that time that they were going to do that.

14 Mr. Geffen and Mr. Stagg informed me at that
15 time that they were going to do that.

16 Q Mr. Bisland, do you recall an application
17 being received for a Small Business Administration disaster
18 loan?

19 A I do.

20 Q Do you recall how it arrived?

21 A It came in on a ^{covering} letter from Mr. Kassab with the
22 form, the application form, which was attached to it.

23 Q Mr. Bisland, I show you what has been previously
24 marked as Government's Exhibit 40 for identification.

25 I ask you if you recognize that?

1 [96] 8 bjs

Bisland - direct

2 A I recognize that.

3 Q Can you tell us what it is?

4 A It is a covering letter from Ernie Kassab to
5 Gene Simms that included the application for the SBA loan.

6 MR. COSTELLO: The Government offers Govern-
7 ment's Exhibit 40 in evidence.

8 MR. ROTHBLATT: No objection.

9 MR. RUBINO: No objection.

10 MR. BALLIRO: No objection, your Honor.

11 (Government's Exhibit 40 was received in
12 evidence.)

13 MR. COSTELLO: Your Honor, with the Court's
14 permission, I would like to read this exhibit to the jury.

15 (Government's Exhibit 40 in evidence was
16 read to the jury.)

17 BY MR. COSTELLO:

18 Q Mr. Bisland, who showed you Government's
19 Exhibit 40, the letter?

20 A I was given this letter with the attached, you
21 know, application forms by Mr. Simms.

22 Q Will you speak up?

23 A I said I was given that letter with the forms
24 attached by Mr. Simms.

25 Q Were you told to do anything with that?

1 [97] 9 bjs

Bisland - direct

2 A i was told to work with Bob Geffen in preparing
3 that application.

4 Q Do you see Mr. Geffen in court here today?

5 A I do. "

6 Q Would you point him out, please?

7 A He is right here (indicating).

8 MR. ROTHBLATT: The accused Geffen is identified.

9 THE COURT: So identified.

10 BY MR. COSTELLO:

11 Q Do you know what Mr. Geffen's function was
12 with the corporation?

13 A He was an independent certified public
14 accountant.

15 Q After you were told by Mr. Simms to go over
16 the application with Mr. Geffen, what did you do?

17 A At that time Bob Geffen and I sat down and went
18 through the application forms, and broke it apart and filled
19 out what we could fill out and gave out the other forms
20 that other individuals had to fill out.

21 Q As part of that application was there a damage
22 section?

23 A Yes.

24 Q What was done with the damage section?

25 A That was given to Frank De Angelis.

1 [99] 11 bjs

Bisland - direct

2 additionally for the time of loss of the flood and also to
3 work out a payroll work sheet, the individuals that were
4 on the job from Stagq Contractors that did work down
5 there.

6 Q Who asked you to get that information?

7 A Mr. Stagq asked me to. He asked me to get
8 the information on the payroll, whatever.

9 Q Did there come a time when those materials,
10 those forms were filled out and sent back?

11 A That is correct.

12 Q Do you know who sent them back?

13 A No, sir. All I know is that the whole
14 application was put together by Mr. Geffen and myself and
15 I believe returned on a covering letter from either Mr.
16 Stagq or Mr. Simms.

17 Q Mr. Bisland, do you know what the estimate of
18 damage was on the forms that were sent back to the SBA?

19 A It was over \$700,000.

20 Q Do you know approximately when that application
21 was finished and sent back?

22 A No, sir, I don't recall the exact date.

23 Q Can you give us a month?

24 A I believe it was the end of July or August.

25 Q What year is that?

[100] 12 bjs Bisland - direct

2 A 1972.

3 Q Mr. Bisland, did there come a time when you
4 learned of the establishment of a company called Harrisburg
5 Excavating & Equipment Company?

6 A Yes, sir.

7 Q When was that?

8 A That was formed that August, the end of August,
9 1972.

10 Q Can you tell us how you learned of the creation
11 of this company?

12 A I was told by Mr. Simms and Mr. Stagg that
13 the company was formed to keep all the equipment that was
14 now scattered throughout all the other corporations under
15 one corporate --

16 Q You say that you were told by Mr. Simms and
17 Mr. Stagg. Where did that conversation take place?

18 A In the office. Probably Mr. Simms' office.
19 I don't recall.

20 Q In Mr. Simms' office?

21 A It could have been, yes.

22 Q Was anybody else present?

23 A Mr. Stagg was present.

24 Q Anybody other than Mr. Simms and Mr. Stagg?

25 A When we were told that they were going to form

[101] 13 bjs

Bisland - direct

2 the corporation, they informed me that they were going to
3 make me president, and they were going to make the girl
4 that worked for me as a bookkeeper secretary-treasurer.

5 Q What was her name?

6 A Marie Peduto, and another girl, Sigrid Legler,
7 they were going to make her vice-president.

8 Q Were Marie Peduto and Sigrid Legler present at
9 that conversation?

10 A I believe so.

11 Q Was only Mr. Simms and Mr. Stagg present during
12 the entire conversation?

13 A Yes, sir, right.

14 Q Mr. Bisland, were you given any instructions
15 with regards to the operation of Harrisburg Excavating &
16 Equipment Company?

17 A Mr. Stagg informed us that we should take an
18 interest in the company, that if it were doing work on the
19 construction site and we wanted to do a good job for Stagg,
20 and we wanted to share the profits should they develop
21 profits.

22 Q Were you given any instructions as to the
23 relationship between Stagg and Harrisburg Excavating &
24 Equipment Company?

25 A I was told it was a completely independent

[109] 4 bmb

Bisland-direct

2 A Well, what had happened Mr. Simms informed
3 Mr. Stagg that Mr. De Angelis didn't have any invoices and
4 it was a fine time for him not to have his part of the job
5 done on the invoices.

6 Q What else was said and by whom?

7 A Well the appointment was set up with Mr.
8 Yaverbaum, and it was depending, the funding of the -- the
9 state loan was depending upon the invoices being submitted
10 so at that point it was said that --

11 MR. ROTHBLATT: Your Honor, I object to what
12 was said.

13 Q Explain what was said and who said it.

14 A What happened was we didn't have invoices and
15 Mr. Geffen suggested that we could use some invoices off the
16 other jobs. It was either Mr. Geffen or Mr. De Angelis
17 on that, I don't know.

18 THE COURT: How would you use them?

19 THE WITNESS: They suggested we use invoices off
20 the Huntingdon job to file as back up for flood damages.
21 And I said it couldn't be done, not for \$700,000, and to prove
22 my point I got the invoices from the accounts payable file,
23 and I brought them into the office.

24 I showed Mr. Geffen where the dates did not gibe
25 with the dates of the flood disaster or to the shopping

[110] 5 bmb

Bisland-direct

2 center repair.

3 Q What happened then?

4 A There was a conference table in the office
5 where we were working, and there was an unrelated piece of
6 paper where it was White Out.

7 Q When you say White Out --

8 A Something a secretary uses to change a
9 typographical error.

10 THE COURT: You mean to cover over?

11 THE WITNESS: You white it out like a brush.

12 THE COURT: You paint out the word you don't
13 want?

14 THE WITNESS: And that we could change the date
15 with that.

16 Q Who said that?

17 A Mr. Geffen.

18 Q He and you had some invoices in your hands at
19 this point from the Huntingdon site?

20 A I did.

21 Q What was done with those invoices?

22 A Mr. Stagg, I believe, made some comments and
23 he said "I don't care how you do it. Get it done and get
24 started on it."

25 Q Did Mr. Simms say anything?

[111] 6 bmb

Bisland-direct

2 A Mr. Simms didn't make any comments at all.

3 Q But he was present?

4 A He was in the office, yes.

5 Q And what happened after that?

6 A Mr. Staqq was very upset about Frank not
7 having the invoices that he was supposed to have been working
8 on with the subcontractors, and he went into a rant and
9 rate, and his typical personality, yelling and screaming about
10 not having something done that was supposed to have been
11 done. I worked with Mr. Geffen that afternoon and
12 night preparing invoices.

13 Q You worked with Mr. Geffen?

14 A That is right.

15 Q What exactly did you do?

16 A Mr. De Angelis was there also. We took invoices
17 or contractors that would be used.

18 Q Where did you take them from?

19 A Out of the paid file.

20 Q Invoices paid?

21 A Unrelated.

22 Q What did you do with them?

23 A We changed them to agree.

24 Q When you say "we," who is we?

25 A Mr. Geffen and myself and Mr. De Angelis.

[112] 7 bmb

Bisland-direct

2

Q Would you explain how you went about changing them?

3

4

5

6

A We would White Out a date or whatever and Xerox the copy of the White Out and type over the Xerox copy.

7

Q What would you do with that?

8

9

10

A I would give it to Mr. Geffen and he had an accounting sheet and paper and log it in and put a number next to it.

11

12

Q This piece of paper that you gave to Mr. Geffen, was this the original, the Xerox with the original?

13

14

15

16

A So we wouldn't have a lot of paper all over the place, Mr. De Angelis would initial it like he did any normal invoice and Mr. Geffen put an item or such and such a number and coordinated it to the estimate of damages.

17

18

Q The piece of paper that Mr. Geffen had in his hands physically was a Xerox?

19

20

A Correct. A letterhead that was Xeroxed with the original typing on it.

21

22

Q Was anybody else present besides Mr. De Angelis, Mr. Geffen and yourself?

23

A No one was present.

24

Q Was Mr. Simms present?

25

A Mr. Simms left the office and he came back

[113] 8 bmb

Bisland-direct

2 with his wife after having dinner downstairs, and asked
3 if we were still on for Pennsylvania the next day.

4 Q Did he ask you anything about the invoices?

5 A He said, "Have you prepared everything that
6 you have to have to go to Pennsylvania?"

7 Q What did you tell him?

8 A Everything is set to go. We are leaving in
9 the morning.

10 Q Mr. Bisland, I show you what has been previously
11 marked as Government's Exhibits 3-A for identification,
12 4-A for identification, 5-A for identification, 6-A for
13 identification, 7-A for identification, 8-A for identifi-
14 cation, 9-A for identification, 10-A for identification,
15 11-A for identification, 12-A for identification, 13-A
16 for identification, 14-A for identification, 15-A for
17 identification, 16-A for identification, 17-A for
18 identification, 18-A for identification, 19-A for identifi-
19 cation, 20-A for identification, 21-A for identification,
20 22-A for identification, 23-A for identification and
21 24-A for identification and ask you if you recognize those.

22 A Those are the invoices that were prepared that
23 day and that evening.

24 Q When you say those are the invoices you
25 mean those are Xeroxes with original typing on it or just

2 A July 14, 1972.

3 Q Now, Mr. Glauber, did you ever have a conversation
4 with Mr. Simms with respect to the establishment of that
5 account, that is, the account that is indicated on Govern-
6 ment's Exhibit 87 in front of you, the Staqq Contracting
7 Company Huntingdon account?

8 A Yes.

9 Q Will you tell us about that conversation?

10 A Mr. Simms called me to his office one day and
11 informed me that he was going to build a house in Connecticut
12 and whatever material was ordered from his company to mine
13 for the Connecticut job should be billed on the Huntingdon,
14 Pennsylvania job.

15 Q Mr. Glauber, I show you documents marked Govern-
16 ment's Exhibit 87-A through and including 87-D for identifica-
17 tion, and ask you whether, comparing those with Government's
18 Exhibit 87, you can tell us what they are?

19 A These are exactly the same as appears on
20 Exhibit 87.

21 Q Meaning 87-A through D, all the tickets set forth
22 on Exhibit 87?

23 A Yes.

24 Q Referring to Government's Exhibit 87, can you tell
25 us when the conversation that you had with Mr. Simms with

[210] b1mrm 42 (S)

Glauber-direct

2 regard to setting up that account took place?

3 A I can't recall it exactly but it had to be around
4 the first part of October in 1972.

5 Q Now, Mr. Grauber, again referring to those invoices
6 do they show any delivery of any materials to Huntingdon,
7 Pennsylvania by your company, referring to the delivery
8 tickets, A through D?

9 A Well, they show that they were picked up by --

10 THE COURT: That is not the question. He wants to
11 know where the stuff went to.

12 Q Do they show any deliveries by your company to
13 Huntingdon, Pennsylvania?

14 A They don't show any deliveries by my company to
15 any place. These show that the material was picked up at
16 our yard.

17 Q Is there one invoice or, rather, one delivery
18 ticket there that does show a delivery to any place?

19 A Yes.

20 Q Which one is it?

21 A Exhibit 87 did.

22 Q Where was the delivery made?

23 A Huckleberry Road off Broadwood in Darien, Connecti-
24 cut.

25 Q Do you know who lives there?

[231] jhlt 18:50

Peduto-direct

231

2 A No, not at that time.

3 Q Did there come a time when in the course of
4 your work at the Stagg Corporation you heard that a loan had
5 been approved?

6 A Yes.

7 Q Did money begin to come to the Stagg Corpora-
8 tions as a result of that loan?

9 A Yes.

10 Q Did you have anything to do with the process of
11 getting that money into accounts at the Stagg Corporation?

12 A Yes, for --

13 Q Would you tell us please how that worked?

14 A Well, the people in Pennsylvania had granted the
15 money to Stagg of Huntington, who was the owner of the
16 property, of the job site in Pennsylvania.

17 Now, when the money was approved the Pennsylvania
18 people deposited into an account called Stagg of Huntington,
19 Inc. escrow account --

20 Q Where was that account?

21 A In the People's National Bank in State
22 College, Pennsylvania. They deposited the original 664,000
23 but we weren't allowed to touch that. So upon -- like when
24 you work in a construction company you present invoices say
25 to your lender. When these invoices are approved --

* * *

[238] 6 mks {87

Peduto - direct

2 THE COURT: Received without objection.

3 (Government's Exhibits 72, 74, 76, 77, 79, 81
4 and 82 now marked in evidence.)

xx

5 BY MR. MUKASEY:

6 Q With respect to the drawing of the amounts of
7 these checks, did you ever have a conversation with
8 Mr. Geffen on that subject?

9 A Yes.

10 Q Can you tell us when it was and where it
11 happened?

12 A It happened in my office.

13 Q Do you remember when?

14 A The first draw, on the first amount of money --
15 the people in Pennsylvania had to get a transfer from Stagg
16 of Huntingdon, Inc. escrow account to the Stagg of Huntingdon,
17 Inc., for the first draw, so automatically I cut the check
18 for the full amount to put it into Stagg Contracting Corp.,
19 who is the builder. When I cut the check originally
20 for the \$236,000 Mr. Geffen said, "No, no, no, you will
21 have to leave money in there."

22 So I said to him, "Why?"

23 He said, "Because it looks better to leave money
24 in there" but he really wasn't my boss so I told Mr. Simms
25 and I said, "Mr. Simms, he wants me to leave money in there."

[239] 7 mks 188

Peduto - direct

2 I said, "When I was cutting the transfer to the
3 Stagg Contracting Corp., I was cutting it for the money in
4 the bank and he said to leave money in there", and he said,
5 "How much did he say to leave there?", and I said, "10 or
6 1500", and he said, "All right, do what he said."

7 Q After the money was drawn to the order of Stagg
8 Contracting Corp. by Stagg of Huntingdon, do you know whether
9 it was deposited?

10 A The Stagg Contracting Corp. was deposited in
11 the Stagg Contracting Corp.'s account at First National
12 City Bank, the main account we used was 399 Park, but for
13 out convenience we used the branch offices across the
14 street on Main Street. Stagg of Huntingdon had also
15 deposited in the First National City Bank across the street,
16 on Main Street in White Plains. We used it for convenience.

17 Q After those deposits were made what happened
18 to the money? What happened with respect to the money on
19 this loan?

20 A Well, it was deposited into Stagg Contracting
21 Corp. Then like Mr. Geffen came in and they told me I
22 could cut the checks, but naturally you make sure to
23 add up the money to make sure of the amount.

24 Q Cut which checks?

25 A The Flood loan checks.

* * *

1 [248] 3jhl

Peduto-direct

2 pay the bill?

3 THE WITNESS: Yes, sir.

4 THE COURT: Whom do you say said that to you?

5 THE WITNESS: Al and Mr. Geffen.

6 THE COURT: And that was said to you at or
7 about the time the check was cut for the respective bills?

8 THE WITNESS: Right, for that particular draw.

9 THE COURT: And that was repeated each time?

10 THE WITNESS: Yes, sir.

11 THE COURT: In respect to each of the checks?

12 THE WITNESS: Some would go out before. Like
13 each draw, time would pass, and then, in regards to the next
14 question, some checks were deposited and some checks were
15 cashed.

16 BY MR. MUKASEY:

17 Q Again, Mrs. Peduto, when you were told to hold
18 the check, did you verify that instruction with anyone else?

19 A Yes, with Mr. Simms.

20 Q What was done with the checks after you had cut
21 and held them as you were instructed to do?

22 A They were signed. Now, I was in my office --

23 THE COURT: No. Just wait for the next
24 question.

25 Q Do you recall what was done with them?

1 [249] 4jhl 198

Peduto-direct

2 A Yes, sir.

3 Q What was done with them?

4 A The checks that were payable to an individual,
5 like for instance because his name is an individual, Raymond
6 Shut, checks that were payable to an individual, they were
7 cashed. Checks that were paid --

8 MR. ROTHBATT: Your Honor, I would object to
9 that.

10 THE COURT: Cashed by whom?

11 THE WITNESS: Sometimes me, sir, sometimes Al.

12 THE COURT: Sometimes by who?

13 THE WITNESS: Sometimes by me, sometimes by Al.

14 THE COURT: Did anybody give you any instruc-
15 tions in regard to that?

16 THE WITNESS: Yes, Mr. Silms and Mr. Stagg.

17 THE COURT: With regard to the checks that
18 were cashed. What happened on the others?

19 THE WITNESS: On the ones that were payable to a
20 corporation, were ususally deposited into Harrisburg
21 Excavating and Equipment Company, Inc.

22 THE COURT: All right.

23 Q You mentioned that certain checks were deposited
24 into the account of Harrisburg Excavating and Equipment
25 Company, Inc. Were you at any time made aware of the

[306] mkbr 1

2 United States of America

3 v.

75 Cr. 1262

4 Gene L. Simms, Ernest Kassab and
Robert Geffen

5

NEW YORK, NEW YORK

6

JANUARY 14, 1976

7

10:00 a.m.

8

- - -

9

(Trial resumed.)

10

- - -

11

(In open court; jury present.)

12

MR. MUKASEY: Your Honor, the government calls

13

Gerald Garner.

14

G E R A L D G A R N E R, whose address is General

15

Delivery, Panama City Beach, Florida, called as

16

a witness by the government, having been first duly

17

sworn, testified as follows:

18

DIRECT EXAMINATION

19

BY MR. MUKASEY:

20

Q Mr. Garner, what is your occupation?

21

A I am presently in charge of a disaster loan

22

office for the Small Business Administration, Panama City.

23

Q Panama City?

24

A Florida.

25

Q Florida.

[307] mkbr 2 256

Garner-direct

2 Directing your attention to the summer of
3 1972, what was your occupation at that time?

4 A I was assistant branch manager of the Harrisburg,
5 Pennsylvania disaster office.

6 Q Mr. Garner, will you keep your voice up so
7 that the jury can hear you. Speak a little louder.

8 A Yes.

9 (Record read by the reporter.)

10 Q What was the function of that office?

11 A Our function was to extend low interest rate
12 government loans to homeowners and businessmen who had
13 been affected by the disaster at that time.

14 Q Which was what?

15 A There was a flooding.

16 Q Pardon?

17 A A flooding.

18 Q Resulting from what?

19 A Hurricane Agnes.

20 Q In the course of your duties did it come to your
21 attention that an application had been submitted in behalf
22 of Stagg Holding Corporation and Stagg of Huntingdon
23 Corporation?

24 A There did.

25 Q Mr. Garner, I show you a document which has been

* * *

[328] mkbr 23 277

Garner-cross

2 A Mid-December, late December.

3 Q Mr. Garner, if I suggest to you that there has
4 been testimony in this case from a Mr. Blankenship, who was
5 described in general terms as heading up that program,
6 there has been testimony from him that the State did not
7 make -- that the State of Pennsylvania did not make appraisals
8 for that damage, would that change your testimony in any way?

9 A Absolutely not.

10 Q You still would say the State did make appraisals
11 MR. MUKASEY: Objection to that. That is not
12 what he said.

13 THE COURT: Objection sustained.

14 Q You say that you learned that from the
15 Assistant State Coordinator?

16 A The name that you just mentioned, Mr. Blankenship--

17 Q Yes?

18 A -- had indicated to our chief appraiser, Mr.
19 Tex Allen, that they did in fact have engineers who did not
20 go out and physically make a determination nail by nail or a
21 detailed appraisal of the damage, but what they did do was
22 go out and verify that there was in fact damage, and they
23 did this -- it is our understanding that they did this in
24 each and every case prior to the State extending their own
25 financing, just as we would.

[329] mkbr 24

278

Garner-cross

2 Q And is that what you were inquiring of Mr.
3 Simms about in your conversation?

4 A That is correct.

5 Q Okay. So that you did not expect, therefore,
6 in response from Mr. Simms, any detailed State analysis,
7 valuation or appraisal of the damage that had been sustained
8 to the Grant Shopping Center?

9 A We expected as much detail as we could
10 possibly get.

11 Q Right, but you knew from your conversation with
12 Mr. Blankenship that that was going to be extremely
13 superficial and in fact was going to amount to pretty much
14 not more than the fact that the flood had been there and
15 caused some damage?

16 A The knowledge that I had at the time that I made
17 with reference to Mr. Simms was that they did in fact
18 have State engineers who made their inspections. The
19 degree of the appraisal that those State inspectors made
20 was not known to me until substantially later -- probably
21 February.

22 Q Sir, having in mind that you dealt with thousands
23 of these applications, having in mind that you dealt with
24 at least a dozen where the State of Pennsylvania had
25 granted interim loan financing, do you want to leave it,

[330] mkbr 25 273

Garner-cross

2 sir, that you relied upon Mr. Simms as to the extent as
3 to which State engineers made an appraisal?

4 A No.

5 Q You relied upon Mr. Blankenship principally
6 with regard to that, isn't that correct?

7 A No.

8 Q Well, did you rely on principally with
9 respect to whether or not and the extent to which the
10 State of Pennsylvania made appraisals?

11 A I relied upon the knowledge that our chief
12 appraiser had of the State Loan Verification Process.
13 His knowledge was at that point in time that the State did
14 have their own appraisers.

15 I wanted that appraiser to sit down in a meeting
16 with us, with the representatives from Staggs and our own
17 appraisers to substantially wash out the difference between
18 our appraisals and Staggs's appraisals. I wanted a third
19 unbiased party present, if possible.

20 Q Mr. Garner, if I suggest to you that Mr.
21 Blankenship has testified in this case, in this courtroom,
22 that they did have appraisers but had what he described as
23 a regional inspector who looked at whether or not damage
24 was caused by the flood, but did not make an appraisal,
25 that he specifically testified to that in this case, does

[331] mkbr 26

280

Garner-cross

2 that --

3 THE COURT: Isn't that what the witness just
4 said? Are you repeating something here?

5 MR. BALLIRO: I don't believe I am.

6 THE WITNESS: I did -- that is exactly what
7 I said.

8 THE COURT: That is precisely what he said
9 five minutes ago.

10 MR. BALLIRO: I thought that he had changed
11 it.

12 THE COURT: He hadn't changed anything.
13 He testified to exactly what the question was.

14 I exclude it because it is repetitious.

15 MR. BALLIRO: If that is his answer, that is
16 all.

17 I have no further questions.

18 REDIRECT EXAMINATION

19 BY MR. MUKASEY:

20 Q Mr. Garner, Mr. Balliro has alluded to the
21 thousands of applications that you received and he said that
22 you received before this particular application in connection
23 with your work on Hurricane Agnes.

24 Mr. Garner, was there anything about this
25 application or about this corporation that caused this

[332] mkbr 27 181

Garner-redirect

2 application of this corporation to stand out in your mind?

3 MR. BALLIRO: I object, your Honor.

4 MR. MUKASEY: Your Honor, this is directly
5 responsive.

6 THE COURT: I don't want to hear any argument
7 about it.

8 I will ask you to reframe your question.

9 Was there something about this application that
10 caused you to pay particular attention to it?

11 Q Was there, sir?

12 A Yes, sir.

13 Q Will you tell us what it was?

14 MR. BALLIRO: And I object.

15 THE COURT: Overruled.

16 A There were several things. To start with
17 from the very beginning, before the file was even appraised
18 by our staff, we had a Congressional inquiry. Now this
19 may not mean much to most of you but in my business --

20 MR. BALLIRO: I object to that.

21 THE COURT: You had a Congressional inquiry?

22 THE WITNESS: Yes. Shall I continue?

23 MR. BALLIRO: I move that answer be stricken.

24 THE COURT: Motion denied.

25 Don't give us the details of that. You had

[333] mkbr 28

Garner-redirect

2 a Congressional inquiry which pointed up your attention,
3 is that what you are saying?

4 THE WITNESS: Yes, sir, and there were other
5 things.

6 THE COURT: What were the other things?

7 MR. BALLIRO: I object to that. I respectfully
8 object to that question.

9 THE COURT: Overruled.

10 Just give us a calendar, without the details,
11 please. What are the types of things?

12 THE WITNESS: The loan officer who
13 was responsible for the processing of the loan came to me
14 a number of times indicating an unresponsiveness of the
15 applicant, the Stagg Corporation, to his letters and
16 requests for additional information, describing the corpor-
17 ate set-up, additional financial information, general
18 credit information which we must have in order to make our
19 final determination.

20 The third thing was the substantial difference
21 between the amount of their request and the four different
22 appraisals of the same damage, which were substantially less
23 than the amount that they had requested.

24 The fourth thing was the -- I don't know whether
25 it is permissible but the fourth thing that --

* * *

1 [550] 40 bjmsr

Weiss - direct

2 A Yes, I have.

3 Q Other than what you described, have you been
4 involved in any business dealings with Mr. Simms?

5 A I'm sorry, what do you mean by "involved"?

6 Q Well, have you been a limited partner or in-
7 vested any monies in any of his ventures?

8 A No, I have not.

9 Q Do you know what Mr. Simms' reputation for
10 truth, veracity and honesty is?

11 A Yes, it is excellent.

12 MR. BALLIRO: Your witness, Mr. Mukasey.

13 CROSS-EXAMINATION

14 BY MR. MUKASEY:

15 Q Mr. Weiss, you testified at the trial of the
16 United States v. Albert Bisland back last Spring, is that
17 correct?

18 A Yes.

19 Q As a defense witness, is that correct?

20 A Yes, that's correct.

21 Q Mr. Weiss, you did have some dealings with Mr.
22 Simms when he was associated with the Stagg organization,
23 did you not?

24 A What do you mean by "dealings"?

25 Q Did you have contact with him?

1 [551] 41 bjmr

Weiss - cross

551

2

THE COURT: You are a lawyer, you say.

3

THE WITNESS: Yes.

4

THE COURT: Don't you know what a dealing is?

5

Don't you know what the word "dealing" is?

6

Did you have any transactions or dealings?

7

THE WITNESS: Well, I had conversations with

8

him with regard to Stagg Contracting.

9

THE COURT: Is that what you understand a

10

dealing is?

11

THE WITNESS: Yes, sir, that's why I asked

12

for clarification.

13

THE COURT: Was it a business conversation?

14

THE WITNESS: Yes, sir.

15

THE COURT: Go ahead.

16

BY MR. MUKASEY:

17

Q Did you have occasion to go to the Stagg offices?

18

A Yes, I did.

19

Q Did you have occasion to know that Simms had

20

a sister named Marianna Voto?

21

A Yes, sir.

22

Q Did you ever see Mrs. Voto at the Stagg

23

Corporation?

24

MR. BALLIRO: I object, your Honor.

25

THE COURT: Overruled.

1 [552] 42 bjmsr , Weiss - cross

552

2 A Not to my recollection.

3 Q Well, in the course of your various discussions
4 with the people that you say you have had discussion with
5 about Mr. Simms' reputation for truth and veracity, did
6 you ever discuss with them the fact that Mr. Simms put
7 his sister on the payroll of the Stagg Corporations, and
8 had the checks deposited in his personal corporate
9 account?

10 MR. BALLIRO: Your Honor, I object. I have
11 a motion.

12 THE COURT: Sustained. Did you at any time hear
13 that his sister was employed at the Stagg organization?

14 THE WITNESS: Yes, your Honor, I did.

15 BY MR. MUKASEY:

16 Q Did you also hear that she did not do any work
17 for the Stagg organization?

18 MR. BALLIRO: I object, your Honor.

19 THE COURT: Sustained.

20 Q Did you also hear that her checks went into
21 the Willett Holding Corporation?

22 MR. BALLIRO: I object, your Honor.

23 THE COURT: Sustained. The motions on what
24 I expect them to be, they are denied.

25 I will read them just to make sure that that

1 [553] 43 bjmr

Weiss - cross

553

2 is what you had in mind.

3 BY MR. MUKASEY:

4 Q Mr. Weiss, when were you asked to be a defense
5 witness in this case?

6 A Tuesday night.

7 MR. MUKASEY: No further questions.

8 MR. ROTHBLATT: Your Honor, may I ask this
9 witness one question?

10 THE COURT: Yes.

11 REDIRECT EXAMINATION

12 BY MR. ROTHBLATT:

13 Q Mr. Weiss, in your opinion as a certified public
14 accountant, is a charge of \$18 an hour for a senior
15 accountant --

16 MR. MUKASEY: Objection, your Honor.

17 THE COURT: Sustained.

18 MR. ROTHBLATT: No further questions.

19 THE COURT: Ladies and gentlemen, the last
20 witness was called here to give information about the
21 reputation in the community for character traits mentioned
22 by counsel.23 You are to disregard in all respects any
24 references to anyone other than himself or his report to
25 you in respect to the reputation to which he testified,

1 [730] 38 bjmsr

2 as the people in the State of Pennsylvania.

3 Now you are going to evaluate the credibility
4 of the witnesses. That's what the case is about.
5 Not on the basis of funny little stunts like the objection
6 to Mr. Bisland testifying that he was convicted in this
7 case.

8 MR. ROTHBLATT: Just a minute, your Honor. We
9 object to this. I submit what we did was perfectly
10 proper, and this is improper argument.

11 THE COURT: Objection overruled. Go ahead.

12 MR. MUKASEY: They objected to the Government
13 trying to bring out the truth that Mr. Bisland was con-
14 victed in this case.

15 MR. BALLIRO: I object.

16 MR. RUBINO: I object to that.

17 THE COURT: I have already explained to the
18 jury that a question was asked and it was the Court's
19 error in blocking the question. And when the matter came
20 up again, I permitted the question to be asked. Whether
21 it is asked on one side of the case or the other side
22 of the case, the only significant fact is what is the
23 fact. There is no inference to be drawn from who asked
24 the question or who was not allowed to ask the question.

25 That is the fault of the umpire at that

1 [731] 39 bjmsr

2 particular play. Excuse me.

3 MR. MUKASEY: Yes, it is the ultimate fact.
4 The ultimate fact, ladies and gentlemen, is that Mr.
5 Bisland was guilty and convicted in this case without
6 ever having been down at the shopping center site, just
7 like Mr. Simms says he was never down there, without ever
8 having known what the true damage estimate was. You
9 do not have to know the estimate.

10 You can evaluate the credibility of Marie
11 Peduto, and equally evaluate also Mr. Bisland's motive.
12 He had a motive alright. It wasn't to help the Govern-
13 ment. He has been convicted, sentenced and he served
14 his sentence. But Mr. Simms --

15 MR. BALLIRO: Your Honor, I object to this
16 argument.

17 THE COURT: Objection overruled.

18 MR. MUKASEY:--testified at his trial and
19 paid him during the entire period he was in jail, paid
20 his legal fees, and now holding \$12,000 in demand notes,
21 payable any time, on Mr. Bisland. You bet he didn't
22 want to lay a glove on Gene Simms. You saw it on the
23 witness stand. He had to be pushed until he finally
24 admitted the truth.

25 Gerry Garner, his testimony about the

* * *

[795] bjmds 14A

2 in my opening, and what I say is not evidence, do not take
3 my word for it, but Government's Exhibit 87 in Evidence
4 through Mr. Glauber indicates the first entry, the first
5 entry on the Huntingdon account at Interstate bill, the
6 building materials corporation is in October. The job was
7 not going on. There is something very unusual about that
8 invoice. And that was the point of introducing it.

9 Point No.4, about Mrs. Peduto checking on the
10 instructions from Mr. Simms. The government, they said,
11 left that general, and did not go into detail. Ladies and
12 gentlemen, Mrs. Peduto's testimony is what it is. And you
13 recall it, and you recall how she testified. I said I was
14 not going to gloss on it, and I am not going to trespass
15 on that. YOU take your testimony and we will get to what
16 Mr. Rubino said about it later, but, ladies and gentlemen,
17 if the government left it so outrageously and inexcusably
18 general, so general that it was really no excuse for having
19 done so, how come, ladies and gentlemen -- I am trying to
20 find the page -- if the government left it so terribly
21 general, how come on page 236 of the record when it came
22 time for Mr. Bailliro to cross-examine his statement was,
23 and I quote, "I have no questions," how come?

24 MR. BAILLIRO: I object, your Honor. We don't
25 have the burden of proof. The government does.

2 he was.

3 What, ladies and gentlemen, was the cross-examina-
4 tion of Frank De Angelis on that critical statement? I am
5 gong to tell you a little bit, ladies and gentlemen, about
6 the way this court works, and about the way trials work, and
7 what the government's obligation is.

8 You heard these witnesses cross-examined with
9 documents. Sometimes they are grand jury testimony, state-
10 ments to the FBI, etc. Well, the government is required,
11 under Title 18, Section 3500, to turn over all of the prior
12 statements of its witnesses to the defendants so that they
13 can use it for cross-examination, and that is fair. They
14 ought to know what those people said on past occasions.

15 MR. ROTHBLATT: Your Honor, I object. That was
16 handed to us on the eve of the testimony of the witnesses,
17 and we didn't have time to study it.

18 MR. RUBINO: Yes, your Honor.

19 THE COURT: Mr. Rothblatt and Mr. Rubino, I am
20 surprised that you said that. I think that you have had those
21 documents long prior to the trial.

22 MR. ROTHBLATT: Not the essential witnesses, no,
23 your Honor. We were handed a batch of testimony.

24 THE COURT: You were handed the documents as
25 required by law, and you had the documents. That is the

[803] bjmds 22

803

2 end of this.

3 I don't want you to interrupt the summation. You
4 are deliberately interrupting the summation. I ask you to
5 desist.

6 MR. RUBINO: That was not the basis for my objec-
7 tion. I object to references to those papers or statements,
8 your Honor.

9 THE COURT: References?

10 MR. MUKASEY: The government has a right to have
11 the jury informed.

12 THE COURT: I overrule that objection. The
13 jury is entitled to know that the defendants' prior state-
14 ments may be turned over to the defendants in advance of
15 the trial which they were here.

16 MR. MUKASEY: Ladies and gentlemen, I am going
17 to read you the cross examination of the three lawyers in
18 this case who are all professionals and all had that 3500
19 information in front of them of Frank De Angelis.

20 "MR. ROTHBLATT: I have no questions.

21 "MR. RUBINO: I have no questions.

22 "MR. BAILLIRO: I have no questions."

23 Don't you seriously think if there was any
24 opportunity to tear Frank De Angelis up, it would have been
25 done.

[804] bjm ds 23

2 MR. RUBINO: Your Honor, I object to that state-
3 ment. I think it is highly improper.

4 THE COURT: I think that you should allow
5 Mr. Mukasey to complete his argument. He is reflecting
6 within reasonable scope his version of the evidence and
7 events at the trial before the jury.

8 I see nothing improper about it. It is in the
9 same way as during the other summations, as I have said
10 this to the jury, to evaluate the evidence and draw their
11 own inferences, but every lawyer has the right to argue his
12 case and his own case.

13 MR. RUBINO: I respectfully except.

14 THE COURT: You are excepting to the fact that
15 each lawyer may argue his case.

16 MR. RUBINO: I will at the proper moment advise
17 you on the basis of my objection.

18 THE COURT: Just a minute. I want you to write
19 out your observation. If there is any corrective action
20 that has to be taken, it may be taken instantly.

21 The memorandum is marked Court's Exhibit 9.

22 (Court's Exhibit 9 marked.)

23 THE COURT: Now, ladies and gentlemen, the argu-
24 ment that is now being made is not to be construed in any
25 way whatsoever, and I direct you that you may not consider

[805] bjmds 24

2 that the mere fact that the lawyers in the exercise of their
3 discretion decided not to cross-examine does not imply that
4 any statements of their clients or of any witnesses that they
5 have before them would have been prejudicial to the defense,
6 or that the statements contained evidence against the defend-
7 ants. All that you are entitled to understand from the facts
8 of the argument that has been made thus far is that state-
9 ments were delivered. We don't know what their contents
10 were, and you may not speculate on their contents, nor may
11 you draw any inference that there is anything in there that
12 is prejudicial to the defendants.

13 What you may note, however, is that when a
14 witness takes the stand, he submits his credibility to the
15 jury. In that connection there was no cross-examination,
16 so that you have the issue of this credibility without any
17 cross-examination. Go ahead.

18 MR. MUKASEY: That, ladies and gentlemen, was
19 the point. And then Mr. Rubino went a bit further and
20 suggested that Defendant's Exhibit D in Evidence, his exhibit,
21 that I had alluded to this exhibit in summation showing the
22 purchase of 32 tickets in an attempt to suggest to you that
23 only 32 of the people who attended the dinner had paid for
24 their tickets.

25 Now, that is absurd. The point of waving this

[406] jhrm 6 47

Simms-direct

2 A Well, they were primarily real estate ventures.
3 They were the development and the construction of shopping
4 centers, other real estate.

5 Q During the course of this trial you have heard the
6 names of certain corporations or business enterprises with
7 Stagg affixed to them; is that correct?

8 A That is correct.

9 Q Are those the enterprises that you became involved
10 in with Mr. Stagg?

11 A Yes, they were.

12 Q Which was the principal corporation?

13 A Stagg Holding Corp.

14 Q Would you describe what you understood the
15 relationship between yourself and Mr. Stagg to be when you
16 became involved with him in these business enterprises?

17 A It was my understanding at that particular time
18 that our relationship was that I was to receive a percentage
19 of the profits regarding the ventures of Stagg Contracting
20 and Stagg Holding Corporation.

21 Q And did you make an investment in Stagg Holding
22 Corporation?

23 A Yes, I did.

24 Q And what was the nature of the investment that you
25 made?

[410] jhrm 1051

Simms-direct

410

He was with him practically all the time.

Q Directing your attention specifically to the loan that has been the subject matter of this case, that an application was made for as a result of the flood damage, when was it first called to your attention that an application was going to be made to the SBA and/or to the local authority in Pennsylvania for funds to pay for the damage caused by the flood?

A Approximately four or five days after the flood occurred.

Q And how did that come to your attention?

A Well, to the best of my recollection, Mr. Stagg had visited the site, came back and advised Mr. Bisland that he was going to be in a position to acquire some federal financing, and he also advised me of that same situation.

Q In a general way first, if you will, will you describe the kinds of things that you attended to with respect to the application for the loan from the SBA and the application for interim financing from the local authority there at Pennsylvania? What was the nature of the things that you performed?

A With regard to that particular loan, Mr. Stagg had told me that he was going to handle and oversee that particular operation. So as a result my function basically

[411] jhrm 11 52

Simms-direct

2 was in effect to stay away from it, except where he may have
3 been out of the office or where some questions may have been
4 raised when he was not available. But for the most part, I
5 was not involved.

6 Q But you did not deliberately refrain from doing
7 whatever you could to assist in processing that application?

8 A Not at all. Not at all.

9 Q Directing your attention specifically, Mr. Simms,
10 to the testimony of Charles Blankenship -- you heard his
11 testimony here in the courtroom?

12 A Yes, I did.

13 Q What contact did you have with Mr. Blankenship
14 in connection with this application?

15 A I met Mr. Blankenship when I was in Pennsylvania,
16 I was introduced to him at that time, and he had, to the
17 best of my recollection, had given me some forms to take
18 back to the Stagg organization for the purpose of having
19 these particular forms executed and returned by the people
20 that would be handling the loan application.

21 Q More specifically, were the forms that he gave you
22 in the nature of application forms to the state authority for
23 the interim financing?

24 A Yes, they were.

25 Q What was it that had caused you to go to Pennsylvania

* * *

[416] jhrm 16 57

Sims-d

2 of Frank De Angelis. Do you recall, in connection with
3 De Angelis having a conversation about materials that were
4 to be shipped to the home that you were building, in Darien,
5 Connecticut?

6 A Yes, I do.

7 Q In connection with that, I would also direct your
8 attention to the testimony of Marvin Glauber, President of
9 Interstate Materials.

10 A Yes, sir.

11 Q Do you recall his testimony concerning a conversa-
12 tion that he had with you?

13 A Yes, I do.

14 Q About materials that were delivered to your home
15 in Darien, Connecticut?

16 A Yes, I do.

17 Q Would you explain to his Honor and the jury, please,
18 what were the circumstances of materials being delivered to
19 the construction of your home in Connecticut?

20 A Well, A. Michael Stagg was building a home for me
21 in Darien, Connecticut, and we had entered into an agreement
22 whereby he would build that house for a stipulated amount,
23 based on the property that at an earlier date I had trans-
24 ferred and turned title over to him and to his corporation.

25 During the course of that construction when he was

[417] jhrm 17 58

Simms-direct

2 purchasing materials for the house he would advise me that
3 certain materials suppliers were being used, primarily
4 because he was handling the entire construction of the
5 house for me.

6 At that particular time we had a meeting with Mr.
7 -- I believe his name was Garber from Interstate.

8 Q Glauber?

9 A Mr. Glauber. He had been using Mr. Glauber or his
10 company for the purchasing of lumber on other projects. Mr.
11 Glauber was in his office. He buzzed me on the intercome.
12 He told me that he was in the process of ordering materials
13 for the job in Pennsylvania, that at that point, because of
14 the large amount of materials that he would need, and the
15 discount that he was getting, that he was also going to
16 order and complete some of the materials that he needed for
17 my project, for my home in Darien.

18 I said fine.

19 When Mr. Glauber was leaving the office or the
20 offices he passed my office and stopped in, wished me good
21 luck with my home. I shook hands with him, I thanked him,
22 and he left. And that was the extent of our conversation.

23 Q Do you recall testimony from both of those gentle-
24 men that those materials were charged off to the Huntingdon
25 job?

2 A That is correct.

3 Q Was that of any significance to you, Mr. Simms,
4 that they were being charged off to the Huntingdon job?

5 A There was none whatsoever.

6 Q Did that in any way profit you, the fact that those
7 materials were being charged off to the Huntingdon job?

8 A Not at all.

9 Q And was that home being built by Mr. Stagg at his
10 construction cost or expense pursuant to a contract that you
11 had with him?

12 A Yes, it was.

13 Q And did you yourself, sir, participate in any way,
14 at least up until the time that you severed your relationship
15 with Mr. Stagg, in the construction of that home?

16 A No, I did not.

17 Q Whose responsibility was the construction of the
18 home?

19 A Mr. Stagg's.

20 Q I direct your attention, Mr. Simms, to the testimony
21 of a Mr. Robert Healy. Do you recall Mr. Healy's testimony?

22 A Yes, I do.

23 Q Mr. Healy was the legislative assistant to Hubert
24 Humphreys?

25 A That is correct.

[426] 26 jhrm, 67

Simms-direct

2 request that had been made from Pennsylvania for supporting
3 documents?

4 A No, I did not.

5 Q You say that Mr. Geffen was at that meeting.

6 A That is correct.

7 Q Who was Mr. Geffen?

8 A Mr. Geffen was an independent certified public
9 accountant that had been hired prior to June of 1972.

10 Q And what was Mr. Geffen's function, as you under-
11 stood it, with respect to the Staggs enterprises?

12 A He was to act as an independent accountant to audit
13 the books on a yearly basis and supply us with the financial
14 information necessary for us to submit to lending institutions
15 as well as for our own use for tax purposes.

16 Q And was it his function to collect or put together
17 supporting documents for applications of this kind?

18 A No, it was not.

19 Q Whose function was that, Mr. Simms?

20 A With respect to -- I am sorry. I am not sure --

21 Q Whose function was it to collect the supporting
22 documents, invoices, vouchers, those kinds of things, that
23 were to be submitted in support of an application for a loan?

24 A Well, all supporting documents pertaining to the
25 construction of any of our projects was to be prepared and

[427] 27 jhrm 68

Simms-direct

2 collected by the construction department.

3 Q And that consisted in the Stagg organization of
4 whom?

5 A Of A. Michael Stagg and Mr. De Angelis and whatever
6 superintendents they had working for them.

7 Q Did Mr. Bisland play a role in connection with the
8 physical putting together of documents in support of an
9 application?

10 A Yes he did.

11 Q What was the function that he performed in that
12 regard?

13 A His primary function was to take what information
14 was submitted to him by the construction department and put
15 it in an order that would be understood by lending institu-
16 tions or for whatever purpose they were to be used for, so
17 they would be understood and they would be comprehensible.

18 THE COURT: Your voice is trailing off. I am sure
19 the jury can't hear you.

20 THE WITNESS: I am sorry, your Honor.

21 Q Please try to keep your voice up, Mr. Simms.

22 MR. ROTHBLATT: May we have that answer reread,
23 your Honor, or read?

24 THE COURT: The reporter will read it.

25 (Answer read.)

[428] 28 jhrm 69

2 Q Do you recall some testimony, Mr. Simms, about you
3 and Mrs. Simms returning to the office that evening at about
4 8:30 p.m.?

5 A Yes, I do.

6 Q What was it that prompted your return to the office
7 that evening, Mr. Simms?

8 A We had gone to the theatre and we had supper and
9 we were leaving to return home and I noticed that the lights
10 in the office were on, so I went upstairs to see who was
11 there and I met Al Bisland.

12 Q Did you have some conversation with him?

13 A I just asked him what he was doing. He said that
14 he was completing the preparation of the work that he was
15 asked to do by Stagg that afternoon for Pennsylvania.

16 Q Did you inquire of him the nature of the work that
17 he was doing beyond the explanation that he gave you?

18 A No I did not.

19 Q I would direct your attention to the testimony of
20 Mr. Garner, who testified this morning, Jerry Garner. Do you
21 recall his testimony, Mr. Simms?

22 A Yes, I do.

23 Q Did there come a time when you had a telephone
24 conversation with Mr. Garner?

25 A There was a telephone conversation from Mr. Garner

[437] jhrm 333

Simms-direct

437

2 business than that which we are concerned with here?

3 A Yes, they were.

4 Q And was it a daily occurrence for you to sign
5 checks?

6 A Yes, it was.

7 Q And would you sign whatever checks were being
8 brought into you by a member of the company?

9 A That is correct.

10 Q Did you, Mr. Simms, at any time participate, either
11 directly or indirectly, or direct anybody to prepare the
12 false vouchers that have been introduced into evidence here
13 in support of that SBA application or any other application?

14 A No, I did not.

15 Q Did you know about the fact that those vouchers
16 were false and being prepared at the time it was being done?

17 A No, I did not.

18 Q Did a time come to pass when you severed your
19 relationship with Mr. Stagg?

20 A That is correct.

21 Q When did you sever your relationship with Mr. Stagg?

22 A February 28, 1973.

23 Q What was the reason for it?

24 A Well, prior to that date, sometime in the month of
25 January of that year, there were two situations that occurred

* * *

DECLARANT

DEFENDANT

DOCKET NO.

75 CR. 1262 MP

JUDGMENT AND PROBATION ORDER

In the presence of the attorney for the government the defendant appeared in person on this d

MONTH DAY YEAR
March 23, 1976

COUNSEL

☐ WITHOUT COUNSEL

However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

☒ WITH COUNSELJoseph J. Balliro

(Name of counsel)

PLEA

☐ GUILTY, and the court being satisfied that there is a factual basis for the plea,☐ NOLO CONTENDERE,☒ NOT GUILTYThere being a ~~XXXXX~~ verdict of☐ NOT GUILTY. Defendant is discharged☒ GUILTY.

FINDING & JUDGMENT

Defendant has been convicted as charged of the offense(s) of unlawfully, wilfully & knowingly did make false statements to the SBA knowing the said statements to be false, for the purpose of influencing the action of the SBA, and for the purpose of obtaining money, property, and things of value. (T.15, U.S. Code, Section 645(a); T.18, U.S. Code, Section 2.); unlawfully, wilfully & knowingly, did transport in interstate commerce between State College, Pennsylvania, and the Southern District of New York, money, knowing the same to have been stolen, converted and taken by fraud. (T.18, U.S. Code, Sections 2314 and 2.); conspiracy so to do. (T. 18, U.S. Code, Section 371.)

SENTENCE OR PROBATION ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of TWO(2) YEARS on each of counts 1,3,4,5,6,7,8 and 9 to run concurrently with each other.

Imposition of sentence on count 2 is suspended. Defendant is placed on Probation for a period of THREE(3) YEARS, subject to the standing probation order of this Court, to begin upon expiration of sentence this day imposed on each of counts 1,3,4,5,6,7,8 and 9.

Pursuant to the provisions of Section 4208(a)(2), Title 18, U.S. Code, the defendant shall become eligible for parole at such time as the Board of Parole may determine.

Defendant advised of his right to appeal.

SPECIAL CONDITIONS OF PROBATION

Defendant is continued on present bail(\$10,000 P.R.B.) pending the expeditious processing of the appeal.

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be implied. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

SIGNED BY

☒ U.S. District Judge☐ U.S. Magistrate

MILTON POLLACK

Date

March 23, 1976

COPY RECEIVED
MAY 1 1976
ROBERT B. FISKE JR.
U.S. ATTORNEY
SO. DIST. OF N.Y.